

REMARKS

IA. Status of the Application

Claims 1-33 were originally filed in the present case. Claims 34-44 were added in a Preliminary Amendment mailed May 14, 2004. In an Amendment accompanying the Response to Office Action mailed May 17, 2005, Applicants cancelled claims 1-44, and added claims 45-83. In an Amendment and Response to the Final Office Action of October 13, 2006 Applicants amended claims 45 – 49, 74 and 75. Claims 48, 49, 55-72, and 81-83 have been withdrawn from consideration by the Office in the Final Office Action of October 13, 2006. In the Amendment and Response to the Office Action of March 30, 2007 claim 75 was amended. In the Amendment and Response to Office Action of July 17, 2007, claims 45, 46, 73, 75, were amended, and claims 84-87 were added. In the Office Action of June 17, 2008 the Office withdrew claims 85-87 from examination. In the Amendment and Response to the Office Action of June 17, 2008 claim 84 was amended. In the Amendment and Response to the Final Office Action of February 20, 2009, claim 45 was amended. In the present Amendment and Response to the Office Action of October 5, 2009, claim 53 is cancelled. Therefore, claims 45-47, 50-52, 54, 73-80 and 84 are currently pending in the application.

Applicants note that the cancellation of claim 53 is made without acquiescing to any of the Office's arguments or rejections, and solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals (PBG),¹ and without waiving the right to prosecute the cancelled claim (or similar claims) in the future.

¹ 65 Fed. Reg. 54603 (Sept. 8, 2000).

IB. Summary of the Interview

Applicants provide herewith the following interview summary to be made of record with respect to the subject application. Applicants thank the Examiner for the helpful interview (hereinafter, "Interview"). The substance of the Interview was as follows:

Participants: Michelle R. Clement (Examiner), David A. Casimir (Attorney), Kirk J. Hogan (Attorney)

Date of Interview: December 22, 2009

Interview type: Telephonic

Exhibit shown or demonstration conducted: None

Claims discussed: Independent claim 45.

Art discussed: U.S. Patent No. 4,263,719.

Agreement with respect to the claims discussed: The Examiner agreed that U.S. Patent No. 4,263,719 does show the secondary cross-hairs of claim 45.

Identification of principal proposed amendments of a substantive nature discussed: Not applicable.

General indication of any other pertinent matters discussed: Not applicable.

General results or outcome of the Interview: The Examiner agreed to re-consider the claims.

IB. Summary of the Objection and Rejections

In the Office Action of October 5, 2009 there is 1 objection, and there are 3 rejections. The currently pending objection and rejections are:

1. The drawings are objected to under 37 CFR 1.83(a).
2. Claim 53 is rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.
3. Claims 45- 47, 50-54, 73, 75-80 and 84 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Reed (US Patent #4,695,161) (hereinafter "Reed") in view of Murdoch (US Patent #4,263,719) (hereinafter "Murdoch").
4. Claim 74 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Reed and Murdoch as applied to claim 45, and further in view of Cohen (US Patent #5,375,072) (hereinafter "Cohen").

II. Objection to the Drawings

In the Office Action of October 5, 2009 the Office notes:

"The drawings must show every feature of the invention specified in the claims. Therefore, the vertical and horizontal cross-hairs **connected** to form a grid must be shown or the feature(s) cancelled from the claim(s)." (Office Action of October 5, 2009, page 2.) (Emphasis in original.)

In the present Amendment and Response to the Office Action of October 5, 2009 claim 53 is cancelled, thereby rendering the Office's objection moot.

In view of the above, the Applicants request that this rejection be withdrawn.

II. Rejections

A. Rejection of claim 53 under 35 U.S.C. 112, second paragraph

In the Office Action of October 5, 2009 the Office notes:

“Claim 53 recites “said vertical [] cross-hairs”, it is not clear which vertical cross-hairs are being referenced in that applicant has previously recited both **secondary** vertical cross hairs and **primary** vertical cross hairs. Correction is required.”
(Office Action of October 5, 2009, page 3.) (Emphasis in original.)

Applicants respectfully disagree. However, in order to expedite the patent application process, and without waiving the right to prosecute the cancelled claim (or similar claims) in the future, in the present Amendment and Response to the Office Action of October 5, 2009, claim 53 is cancelled.

In view of the above, the Applicants request that this rejection be withdrawn.

B. Claims 45- 47, 50-54, 73, 75-80 and 84 are not obvious over Reed in view of Murdoch

In the Office Action of October 5, 2009 the Office notes:

“Murdoch teaches a reticle comprising a plurality of simultaneously visible secondary horizontal cross-hairs formed by etching intersecting at predetermined distances a *simultaneously* visible primary vertical cross-hair, and a plurality of *simultaneously* visible secondary vertical cross-hairs intersecting at predetermined distances at least some of the secondary horizontal cross-hairs.” (Office Action of October 5, 2009, pages 5-6.) (Italics in original.)

Applicants respectfully disagree. Applicants note that Murdoch fails to teach not one, but multiple elements of the presently claimed invention. For example, Murdoch does not teach or suggest a plurality of simultaneously visible secondary vertical cross-hairs intersecting at predetermined distances at least some secondary horizontal cross-hairs. During the phone interview, the Examiner indicated that Figure 7 was cited for these elements, but after discussion, an agreement was reached that Figure 7 does not have these elements as claimed.

Moreover, Murdoch fails to teach or suggest an output using an intersection of a least one secondary horizontal cross-hair and at least one secondary vertical cross-hair to identify an aiming point for hitting the target. As well, Murdoch fails to teach or suggest a target acquisition device reticle that comprises an aiming point at an intersection of a simultaneously visible secondary vertical cross-hair and a simultaneously visible secondary horizontal cross-hair, wherein a ballistics calculator system further provides an output of the number of clicks an elevation knob and a windage knob should be turned to adjust a position of the target acquisition device relative to a firearm such that an intersection of a secondary vertical cross-hair and a secondary horizontal cross-hair can be used as an aiming point for striking a target. Reed fails to remedy these defects.

In view of the above, Applicants request that this rejection be withdrawn.

C. Claim 74 is not obvious over Reed and Murdoch in view of Cohen

Claim 74 depends upon independent claim 45. Applicants note that claim 74 is not obvious for at least the same reasons that claim 45 is not obvious. As discussed above, Murdoch fails to teach not just one but multiple elements of the presently claimed invention. Reed and Cohen fail to remedy these defects.

In view of the above, Applicants request that this rejection be withdrawn.

CONCLUSION

Should the Examiner believe that a telephone interview would aid in the prosecution of this application the Applicants encourage the Examiner to call the undersigned collect at (608) 663 1277.

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/David A. Casimir/

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